

Mr. SESSIONS. I ask unanimous consent that the bill, as amended, be deemed read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The bill (S. 1189), as amended, was deemed read the third time and passed, as follows:

S. 1189

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Judiciary Protection Act of 1997".

SEC. 2. ASSAULTING, RESISTING, OR IMPEDING CERTAIN OFFICERS OR EMPLOYEES.

Section 111 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "three" and inserting "12"; and

(2) in subsection (b), by striking "ten" and inserting "20".

SEC. 3. INFLUENCING, IMPEDING, OR RETALIATING AGAINST A FEDERAL OFFICIAL BY THREATENING OR INJURING A FAMILY MEMBER.

Section 115(b)(4) of title 18, United States Code, is amended—

(1) by striking "five" and inserting "10"; and

(2) by striking "three" and inserting "6".

SEC. 4. MAILING THREATENING COMMUNICATIONS.

Section 876 of title 18, United States Code, is amended—

(1) by designating the first 4 undesignated paragraphs as subsections (a) through (d), respectively;

(2) in subsection (c), as so designated, by adding at the end the following: "If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both."; and

(3) in subsection (d), as so designated, by adding at the end the following: "If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 5. AMENDMENT OF THE SENTENCING GUIDELINES FOR ASSAULTS AND THREATS AGAINST FEDERAL JUDGES AND CERTAIN OTHER FEDERAL OFFICIALS AND EMPLOYEES.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the commission, if appropriate, to provide an appropriate sentencing enhancement for offenses involving influencing, assaulting, resisting, impeding, retaliating against, or threatening a Federal judge, magistrate judge, or any other official described in section 111 or 115 of title 18, United States Code.

(b) FACTORS FOR CONSIDERATION.—In carrying out this section, the United States Sentencing Commission shall consider, with respect to each offense described in subsection (a)—

(1) any expression of congressional intent regarding the appropriate penalties for the offense;

(2) the range of conduct covered by the offense;

(3) the existing sentences for the offense;

(4) the extent to which sentencing enhancements within the Federal sentencing

guidelines and the court's authority to impose a sentence in excess of the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offense;

(5) the extent to which Federal sentencing guideline sentences for the offense have been constrained by statutory maximum penalties;

(6) the extent to which Federal sentencing guidelines for the offense adequately achieve the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code;

(7) the relationship of Federal sentencing guidelines for the offense to the Federal sentencing guidelines for other offenses of comparable seriousness; and

(8) any other factors that the Commission considers to be appropriate.

NATIONAL AMERICAN INDIAN HERITAGE MONTH

Mr. SESSIONS. I ask unanimous consent the Judiciary Committee be discharged from further consideration of S. Res. 145 and the Senate proceed to its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 145) designating the month of November 1997 as "National American Indian Heritage Month."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. SESSIONS. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The preamble was agreed to.

The resolution (S. Res. 145) was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 145

Whereas American Indians and Alaska Natives were the original inhabitants of the land that now constitutes the United States;

Whereas American Indian tribal governments developed the fundamental principles of freedom of speech and separation of powers that form the foundation of the United States Government;

Whereas American Indians and Alaska Natives have traditionally exhibited a respect for the finiteness of natural resources through a reverence for the earth;

Whereas American Indians and Alaska Natives have served with valor in all of America's wars beginning with the Revolutionary War through the conflict in the Persian Gulf, and often the percentage of American Indians who served exceeded significantly the percentage of American Indians in the population of the United States as a whole;

Whereas American Indians and Alaska Natives have made distinct and important contributions to the United States and the rest of the world in many fields, including agriculture, medicine, music, language, and art;

Whereas American Indians and Alaska Natives deserve to be recognized for their individual contributions to the United States as

local and national leaders, artists, athletes, and scholars;

Whereas this recognition will encourage self-esteem, pride, and self-awareness in American Indians and Alaska Natives of all ages; and

Whereas November is a time when many Americans commemorate a special time in the history of the United States when American Indians and English settlers celebrated the bounty of their harvest and the promise of new kinships: Now, therefore, be it

Resolved, That the Senate designates November 1997 as "National American Indian Heritage Month" and requests that the President issue a proclamation calling on the Federal Government and State and local governments, interested groups and organizations, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

SENATE LEGAL COUNSEL REPRESENTATION

Mr. SESSIONS. I ask unanimous consent the Senate proceed en bloc to the immediate consideration of three Senate resolutions, S. Res. 152, S. Res. 153, and S. Res. 154, which were submitted earlier today by Senators LOTT and DASCHLE. I further ask consent that the resolutions be agreed to, the preambles be agreed to, and statements relating to these resolutions be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolutions (S. Res. 152, S. Res. 153, and S. Res. 154), en bloc, were agreed to.

The preambles were agreed to.

The resolutions, with their preambles, read as follows:

S. RES. 152

Whereas, in the cases of *City of New York, et al. v. William Clinton, et al.*, Civ. No. 97-2393, *National Treasury Employees Union, et al. v. United States, et al.*, Civ. No. 97-2399, and *Snake River Potato Growers, Inc., et al. v. Robert Rubin*, Civ. No. 97-2463, all pending in the United States District Court for the District of Columbia, the constitutionality of the Line Item Veto Act, Pub. L. No. 104-130, 110 Stat. 1200 (1996), has been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(c), 288e(a), and 288j(a), the Senate may direct its counsel to appear as amicus curiae in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to appear as amicus curiae on behalf of the Senate in the cases of *City of New York, et al. v. William Clinton, et al.*; *National Treasury Employees Union, et al. v. United States, et al.*; and *Snake River Potato Growers, Inc., et al. v. Robert Rubin*, to defend the constitutionality of the Line Item Veto Act.

SEC. 2. That while the Senate is adjourned the Senate Legal Counsel is authorized to appear as amicus curiae on behalf of the Senate in other cases in which the constitutionality of the Line Item Veto Act is placed in issue: *Provided*, That the Joint Leadership Group authorizes the Senate Legal Counsel to appear as amicus curiae on behalf of the Senate in such other cases.

Mr. LOTT. Mr. President, last year, after years of legislative consideration and debate, Congress enacted into law

the Line Item Veto Act. For the next several years, this act gives the President authority, within carefully circumscribed limits, to cancel particular items of appropriation, direct spending, or limited tax benefits. The President must send Congress a special message reporting his cancellations within five days after he approves the bill containing the spending or tax provisions, and Congress may then consider, under expedited procedures, whether to pass a new law disapproving the President's cancellation.

Congress delegated this responsibility to the President as a means of furthering our goal of balancing the federal budget. Congress's enactment of the Line Item Veto Act followed vigorous debate in the Senate, in which some opponents raised doubts about the law's constitutionality. All Members recognized that these constitutional questions likely ultimately would be resolved only in the Supreme Court.

Last January, the day after the law took effect, in the case of *Byrd v. Raines*, six of our colleagues filed suit challenging the constitutionality of the Line Item Veto Act. On January 22, 1997, the Senate directed the Senate Legal Counsel to appear on behalf of the Senate as amicus curiae in *Byrd v. Raines* to defend the constitutionality of the Line Item Veto Act. In June the Supreme Court dismissed the case on the basis that the plaintiffs lacked legal standing to bring their suit. The Court did not address the constitutional question.

In August, the President began using the Line Item Veto Act's cancellation authority for the first time. As a result of the President's cancellations, three new actions have recently been filed in the United States District Court for the District of Columbia again challenging the constitutionality of the Act. The plaintiffs assert that the Act violates the lawmaking provisions of Article I of the Constitution by authorizing the President to nullify the effect of portions of recently enacted laws. These challenges call into question the full range of cancellation authority provided by Congress in the Act, as the three cases address direct spending, discretionary appropriations, and limited tax benefits, respectively.

Mr. President, as with the Senate's appearance amicus curiae in *Byrd v. Raines*, appearance in these cases as an amicus curiae would again enable the Senate to present to the courts its reasons for enacting the Line Item Veto Act and the basis for the Senate's conviction that the law is consistent with the Constitution. Accordingly, this resolution would authorize the Senate Legal Counsel to appear in these cases in the name of the Senate as amicus curiae to support the constitutionality of the Line Item Veto Act.

The Senate would not take a position on questions about the legal standing of any of these plaintiffs, as it did not in the prior litigation. However, as in

the earlier litigation, the Senate Legal Counsel will be expected to describe to the courts, in the course of supporting the constitutionality of the Line Item Veto Act, the statutory limits embodied in the Act that constrain the President's use of this authority to the particular circumstances and conditions carefully prescribed by the Act.

Finally, this resolution also would authorize the Senate Legal Counsel to appear in the name of the Senate as amicus curiae to support the constitutionality of the Line Item Veto Act in any other cases challenging the constitutionality of the Act that may occur during the adjournment of the Senate, if authorized to do so by the Joint Leadership Group. This is the procedure the Senate has used in the past to protect its legal interests during adjournments.

S. RES. 153

Whereas, in the case of *Sherry Yvonne Moore v. Capitol Guide Board*, Case No. 1:97CV00823, pending in the United States District Court for the District of Columbia, a subpoena has been issued for the production of documents of the Sergeant-at-Arms and Doorkeeper of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members, officers, and employees of the Senate with respect to any subpoena, order, or request for testimony or document production relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Sergeant-at-Arms and Doorkeeper of the Senate is authorized to produce documents relevant to the case of *Sherry Yvonne Moore v. Capitol Guide Board*, except where a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent the Sergeant-at-Arms and Doorkeeper of the Senate in connection with the production of documents in this case.

Mr. LOTT. Mr. President, the case of *Sherry Yvonne Moore v. Capitol Guide Board*, pending in the United States District Court for the District of Columbia under the Congressional Accountability Act, involves claims of employment discrimination by the plaintiff, former employee of the Sergeant at Arms who worked for the Capitol Guide Service.

The plaintiff in this case has issued a subpoena for documents to the Senate Sergeant at Arms. The enclosed resolution would authorize the Sergeant at Arms to produce such documents, except where a privilege or objection should be asserted. It would also authorize the Senate Legal Counsel to represent the Sergeant at Arms in connection with the production of such documents.

S. RES. 154

Whereas, in the case of *Magee, et al. v. Hatch, et al.*, No. 97-CV02203, pending in the United States District Court for the District of Columbia, the plaintiffs have named Senator Orrin Hatch as a defendant;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1) (1994), the Senate may direct its counsel to defend its Members in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Hatch in the case of *Magee, et al. v. Hatch, et al.*

Mr. LOTT. Mr. President, *Magee, et al. v. Hatch, et al.* is an action arising out of Congress's enactment of the Anti-Terrorism and Effective Death Penalty Act of 1996. The suit names Senator Orrin G. Hatch and Speaker of the House Newt Gingrich as the sole defendants. This resolution authorizes the Senate Legal Counsel to represent Senator Hatch in this matter. If so authorized, the Senate Legal Counsel will seek dismissal of the complaint.

MAMMOGRAPHY QUALITY STANDARDS REAUTHORIZATION ACT

Mr. SESSIONS. I ask unanimous consent that the Labor and Human Resources Committee be discharged from further consideration of S. 537 and that the Senate then proceed to its immediate adjournment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 537) to amend title III of the Public Health Service Act to revise and extend the mammography quality standards program.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. I ask unanimous consent the bill be read three times and passed, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 537) was deemed read the third time and passed, as follows:

S. 537

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mammography Quality Standards Reauthorization Act".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subparagraphs (A) and (B) of section 354(r)(2) of the Public Health Service Act (42 U.S.C. 263b(r)(2) (A) and (B)) are each amended by striking "1997" and inserting "2002".

(b) TECHNICAL AMENDMENT.—Section 354(r)(2)(A) of the Public Health Service Act (42 U.S.C. 263b(r)(2)(A)) is amended by striking "subsection (q)" and inserting "subsection (p)".

SEC. 3. APPLICATION OF CURRENT VERSION OF APPEAL REGULATIONS.

Section 354(d)(2)(B) of the Public Health Service Act (42 U.S.C. 263b(d)(2)(B)) is